

The Honorable Judge Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

JAMES MCDONALD,

Plaintiff,

v.

ONEWEST BANK, FSB, NORTHWEST
TRUSTEE SERVICES, INC., MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS,
INC., INDYMAC BANK FSB, DOES 1-50,

Defendants.

No. C10-1952 RSL

**DEFENDANTS' MOTION TO
STRIKE PLAINTIFF'S
MEMORANDUM TO JUDGE
REGARDING TRO HEARING**

COME NOW Defendants OneWest Bank, FSB ("OneWest"), Mortgage Electronic Registration Systems Inc. ("MERS"), and Northwest Trustee Services, Inc. ("NWTS") (collectively "Defendants") and move the court for an order striking Plaintiff's Memorandum to Judge Regarding TRO Hearing on the grounds that it is untimely and over length.

I. APPLICABLE FACTS

Following the TRO hearing held on January 18, 2010, Plaintiff filed an additional reply in which Plaintiff attempted to make further argument. *See* Dkt. 20.

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II. AUTHORITY & ARGUMENT

A. PLAINTIFF'S SECOND REPLY IS UNTIMELY.

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Pursuant to the Briefing Schedule and Notice of Hearing entered on January 4, 2011, Plaintiff was required to file his reply on or before January 17, 2011. Dkt. 10.

Plaintiff, however, filed an additional reply on January 18, 2011. Dkt. 20. The January 18, 2011 was untimely. Plaintiff was given an opportunity to present his arguments at the TRO hearing before the Court on January 18, 2011. Plaintiff's further filings are an improper attempt to give the court further argument and should be stricken.

B. PLAINTIFF'S SECOND REPLY IS OVER LENGTH.

Civil Rule 7(e)(2) governs the length of reply briefs. Plaintiff's reply filed on January 17, 2011, was thirty pages in length. Plaintiff's additional reply filed on January 18 following the TRO hearing was two pages in length. Plaintiff's reply, in total of 32 pages, clearly exceeds the 6 page limit. To the extent Plaintiff's reply is over length, those pages should be stricken.

III. CONCLUSION


Based on the foregoing, Defendants respectfully request that this Court strike Plaintiff's Memorandum from Plaintiff to Judge Regarding TRO Hearing.

IV. PROPOSED ORDER

A Proposed order granting the requested relief accompanies this motion.

DATED this 19th day of January, 2011.

ROUTH CRABTREE OLSEN, P.S.



Heidi E. Buck, WSBA No. 41769
Of Attorneys for Defendants OneWest
Bank, Mortgage Electronic Registration
Systems, Inc., and Northwest Trustee
Services, Inc.